

VZCZCXR04138
PP RUEHJO
DE RUEHMB #0077/01 0571144
ZNR UUUUU ZZH
P 261144Z FEB 10
FM AMEMBASSY MBABANE
TO RUEHC/SECSTATE WASHDC PRIORITY 3951
INFO RUEHSA/AMEMBASSY PRETORIA 2800
RUEHJO/AMCONSUL JOHANNESBURG 0435

UNCLAS SECTION 01 OF 02 MBABANE 000077

SENSITIVE

SIPDIS

DEPT FOR CA/OCS/CI (SHAFFER); CA/OCS/ACS (RAUGUST)
JOHANNESBURG FOR RCO KENT MAY

E.O. 12356: N/A

TAGS: CASC KOCI PREL PGOV SOCI WZ

SUBJECT: SWAZILAND'S DEPUTY PRIME MINISTER'S RESPONSE TO THE STALLED INTER-COUNTRY ADOPTIONS

REF: (A) MBABANE 0052, (B) MBABANE 0059

¶1. (SBU) SUMMARY: As a follow up to meetings Ambassador Irving and ConOff Murphy held with Swazi government officials and Prospective Adoptive Parents (PAPs) regarding the stalled inter-country adoption cases detailed in refs (A) and (B), the Deputy Prime Minister's Office (DPM) provided the families with written feedback on February 11. Although the responses were expedient, as promised, they are far from conclusive and failed to provide any concrete resolution or timeline to the cases. In a separate phone conversation February 24 between Principal Secretary Khangeziwe Mabuza and ConOff, the Principal Secretary indicated that the DPM's office is still reviewing its internal processing procedures before determining whether a cabinet opinion is needed to officially suspend international adoptions. Until that determination is made, they will not process new cases. END SUMMARY

THE STALLED CASES

¶2. (U) When Melanie Fullingim arrived in Swaziland on November 19, 2009 to adopt three older orphaned biological siblings, the children's adoptable status was proclaimed unambiguous. In the three months that Ms. Fullingim has been in country for the processing of her case (which should have taken two weeks), the missing mother resurfaced and the abusive father, who had relinquished custody in writing, began to have second thoughts. In its 11 February communication, the DPM's office indicated, for this reason, "there is still a lot that needs to be done before this case is concluded." The DPM further stated that the DPM's office would continue to follow up on the case to determine the intentions of the biological parents who for years had not been able or willing to care for the children. Telephonically, the DPM said he would personally speak to the biological parents. Since Mrs. Fullingim had already bonded with the children as though they were members of her family for over two months, she decided to wait in Swaziland for a more concrete conclusion. She would then know the children were either going back to the U.S. with her or to the biological family, rather than back to an institution. At this writing, Mrs. Fullingim is still waiting in Swaziland for a final determination.

¶3. (U) When John Messerly arrived in Swaziland on November 23, 2009 to adopt two unrelated orphaned children, the children's adoptable status was also proclaimed unambiguous. After Mr. Messerly was in country for two and a half months, the High Court approved the adoption of the daughter, but questioned the adoptable status of the son, despite the fact that the DPM's office had already recommended the adoption. In the months that Mr. Messerly's case had been languishing in the courts, a paternal great-aunt came forward, claiming interest in seeing the child. The woman did not, however, express an interest in taking custody and providing long-term care for the child. In their 11 February communication, the DPM's office indicated "this is a significant development that needs further interrogation." Mr. Messerly remained in Swaziland as long as he

could to ensure that the child would at least be placed with his family, but instead he was returned to the orphanage. Mr. Messerly had to return to the U.S. so his daughter could begin school, but he continues to nurture hope that the child's adoptable status will be reconfirmed and he will be able to return to Swaziland to finalize the adoption in the future. Mr. Messerly received his daughter's immigrant visa in Johannesburg on February 19.

¶4. (U) When Dr. Nilou Ataie arrived in Swaziland on January 16, 2010 to adopt an infant child whose birth mother specifically requested that her unborn child be placed immediately after birth with a PAP rather than be put in an institution, the situation appeared straight-forward. It proved otherwise. Although DSW approved this arrangement in advance of Dr. Ataie's arrival in Swaziland, the department reneged on the agreement and placed the newborn in an orphanage. While the infant was in the orphanage, authorities realized the consenting birth mother is a South African citizen and the father is unknown, but assumed to be South African, so the child has no right to Swazi citizenship under Swazi law. According to the Deputy Prime Minister, this meant that the DSW could not process the child's adoption without a legal opinion, and may have had to deport the infant and transfer custody of the child to South Africa's already overburdened social welfare system. In its 11 February communication, the DPM's office indicated "further consultations will be done between the Government of Swaziland and the Republic of South Africa on the status of the child in question." Furthermore, they recognized Dr. Ataie's interest in adopting another available child, but could not commit to any time frame. With little prospect of a fruitful adoption in the near future, Dr. Ataie decided to return to her family in the U.S. on February 23.

CONTINUED REVIEW OF DPM'S INTERNAL PROCESSING PROCEDURES

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¶5. (U) According to Principal Secretary Mabuza, the DPM's office is still conducting an internal review of its procedures to determine if the cabinet should be involved in a formal decision on whether adoptions should be suspended pending an overhaul of the process. The DPM's office should have a determination by the end of March and will make a formal announcement. Until that time, international adoptions are not officially suspended, but are all being reviewed, and new cases are not being processed.

IRVING